THE HON'BLE Ms. JUSTICE G.ROHINI

WRIT PETITION NO: 15800 of 2006

Dated: 31-07-2006

Between:

Vulli Naga Durga Prasad and three others.

..... PETITIONER

AND

Central Bank of India,
Rep., by its Authorised Officer cum Regional Manager,
Vijayawada and another

.....RESPONDENTS

THE HON'BLE Ms. JUSTICE G.ROHINI

WRIT PETITION NO: 15800 of 2006

O R D E R:

This writ petition is filed seeking a writ of certiorari to call for the records relating to the notice dated 12-06-2006 issued under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the Act') and to quash the same being illegal and without jurisdiction.

It is stated that the impugned notice under Section 13(2) of the Act was published in the local daily on 08-07-2006. Since no particulars were furnished in the said notice and since the petitioners are disputing the amounts shown as arrears, on 24-07-2006 they made a representation to the second respondent. Thereafter, there is no further communication from the respondents, however, the petitioners apprehend that the respondents are likely to take coercive steps for recovery of the alleged arrears. Hence, this writ petition.

The impugned notice issued under Section 13 (2) of the Act itself shows that the petitioners were called upon to pay the alleged arrears within a period of 60 days from the date of receipt of the said notice. Under sub-section (3A) of Section 13 of the Act, on receipt of the notice under sub-section (2) of the Act, the borrower may make a representation raising the objections, in which event, the secured creditor shall consider such

representation or objection and if the secured creditor comes to the conclusion that such representation or objection is not acceptable or tenable, he shall communicate within one week of receipt of such representation or objection, the reasons for non-acceptance of the representation or objection to the borrower.

In view of the mandatory provisions under sub-section (3A) of Section 13 of the Act, the respondents will have to consider the objections raised by the petitioners and after communicating the order either accepting or rejecting the objections, they may proceed further under subsection (4) of Section 13 of the Act.

Accordingly, the writ petition is disposed of making it clear that the respondents shall not take any coercive steps against the petitioners without following the procedure as prescribed under Section 13 of the Act. No costs.

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G. ROHINI, J

Dated: 31-07-2006

Note: Issue C.C. in two days.

B/O

KLP